

REMARKS/ARGUMENTS

Claims 1, 18, 19, and 22 were amended to further clarify what is meant by “propylene polymer”. This clarification is discussed at page 6, lines 21-23 of the present application and so no new subject matter is added. Claim 18 was also amended to eliminate the preferred ranges as it was felt that these made the claims unclear.

Claims 1, 3-9, 12-15 and 18-23 are currently pending in the present application. Initially the Examiner has rejected claims 1, 3-9, 12-15, 19-21 and 23 under 35 USC § 102(b) as being anticipated by Eichbauer (US 5,907,943) and claims 18 and 22 under 35 USC § 103(a) as being unpatentable over the same reference. The claims recite a film having at least three layers, at least one layer comprising a polyethylene material and at least one non-surface layer comprising a propylene polymer. It is respectfully submitted that Eichbauer teaches that its non-surface layer may be a blend of a polyethylene having a low polydispersity index and a high pressure low density polyethylene resin (“LDPE”). That the low polydispersity polymer is also a polyethylene is made clear from the paragraph beginning at column 4, line 7 of Eichbauer. Although propylene units may be the alpha olefin copolymer in the low polydispersity polymer, it is clear that the comonomer content is far less than 50%. The Examiner has pointed to claim 51 of Eichbauer for the proposition that Eichbauer teaches the use of propylene layers, but this claim specifically refers to an outer slip layer, not an inner layer as recited in the claims. Accordingly, it is now clear that Eichbauer does not teach or suggest the non-surface layer comprising a propylene polymer as recited in claim 1. As Eichbauer does not contain the same chemical composition and the structure of the film, the Examiner’s position that the property limitations as to catastrophic failure and tensile stress at break would be inherently met by Eichbauer, is not properly supported.

As for the rejection of claims 18 and 22 based on § 103(a), as these claims also contain the recitation that an inner layer comprise a propylene based polymer, these claims are not made obvious in light of Eichbauer for the same reasons as described above. Accordingly, Applicant respectfully requests that all of the rejections based on Eichbauer be withdrawn.

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Respectfully submitted,

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